

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ERNEST HARRIS, and MATTIE HARRIS,	§	
on behalf of themselves and all other	§	
similarly situated Chapter 13 Debtors,	§	
	§	
Plaintiffs	§	
	§	Civil Action H-08-1243
vs.	§	
	§	ADVERSARY 08-3014
FIDELITY NATIONAL INFORMATION	§	
SERVICES INC., d/b/a FIDELITY	§	
NATIONAL FORECLOSURE &	§	
BANKRUPTCY SOLUTIONS,	§	
	§	
Defendants.	§	

RESPONSE IN OPPOSITION TO MOTION FOR LEAVE TO APPEAL

COMES NOW, Ernest and Mattie Harris (“Plaintiffs”)and file this *Response In Opposition To Motion For Leave To Appeal*, and respectfully show as follows:

1. Defendants seek leave to appeal from the Interlocutory Order from the Bankruptcy Court partially denying Defendant’s Motion To Dismiss.
2. In the discretion of the court, leave to appeal from an interlocutory order may be granted generally if the appeal involves 1) a controlling issue of law; 2) a substantial ground for difference of opinion regarding the controlling issue of law; and 3) the appeal will materially advance the ultimate termination of the litigation.
3. The Defendant presents three issues for appeal, none of which satisfy the requirements for an interlocutory appeal.
4. The first issue, “[W]hether funds transferred by the bankruptcy estate to another entity remain ‘property of the estate’ after such transfer”, involves significant factual issues which can only be determined after material discovery has been conducted.
5. The second, “[W]hether a private cause of action exists for an alleged violation of Bankruptcy Rule 2016" materially misstates the issue before the court in this litigation. Plaintiffs are requesting the court to *enforce* Rule 2016 and to order disgorgement for the

Defendant's failure to comply.

6. The final issue, "Whether a state law civil conspiracy claim based upon alleged violations of the Bankruptcy Code is preempted", likewise misstates the issue as the Bankruptcy Court did not rule on preemption grounds and denied the *Motion To Dismiss* finding that a civil conspiracy could exist with respect to violations of the Bankruptcy Code and Rules.
7. Plaintiffs will supplement and provide supporting authority for their opposition.

WHEREFORE, Plaintiffs request this Court to deny the Motion For Leave To Appeal and to grant them such other and further relief, at law or in equity to which they may be justly entitled.

Dated: April 24, 2008

Respectfully submitted,

By: /s/ Johnie Patterson

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I, Johnie Patterson, hereby certify that a true and correct copy of the foregoing Response was served upon Joseph Epstein by electronic transmission on April 24, 2008.

/s/ Johnie Patterson
Johnie Patterson